

IN THE SUPREME COURT OF ALABAMA
February 25, 2009

ORDER

IT IS ORDERED that Rule 32(A)(4) and Rule 32(B)(7), Alabama Rules of Judicial Administration, be amended to read in accordance with Appendices A and B, respectively;

IT IS FURTHER ORDERED that the Comment to Amendments Effective March 1, 2009, be adopted to read in accordance with Appendix C;

IT IS FURTHER ORDERED that these amendments and the adoption of the Comment are effective March 1, 2009;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 32:

"Note from the reporter of decisions: The order amending Rule 32(A)(4) and Rule 32(B)(7), effective March 1, 2009, and adopting the Comment to Amendments Effective March 1, 2009, is published in that volume of Alabama Reporter that contains Alabama cases from ____ So. 3d."

Cobb, C.J., and Lyons, Woodall, Stuart, Smith, Bolin, Parker, Murdock, and Shaw, JJ., concur.

APPENDIX A

Rule 32(A)(4), Alabama Rules of Judicial Administration.

(4) Health-Care Needs. All orders establishing or modifying child support shall, at a minimum, provide for the children's health-care needs through health-insurance coverage, through cash medical support, or other means. Normally, health insurance covering the children should be required if it is available to either parent through his or her employment or pursuant to any other group plan at a reasonable cost and is accessible to the children.

APPENDIX B

Rule 32(B)(7), Alabama Rules of Judicial Administration.

(7) Health-Insurance Coverage/Cash Medical Support.

(a) Medical support in the form of health-insurance coverage and/or cash medical support shall be ordered provided that health-insurance coverage is available to either parent at a reasonable cost and/or cash medical support is considered reasonable in cost. The health-insurance coverage must be "accessible" to the children, as that term is defined in subsection (c).

(b) Cash medical support may be ordered in addition to health-insurance coverage. Cash medical support does not have to be a stand-alone amount. Cash medical support for uninsured medical expenses can be allocated between the parents.

(c) Definitions.

(1) Cash Medical Support. Cash medical support is an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by insurance.

(2) Health Insurance. Health insurance includes the fee for service, health-maintenance organization, preferred-provider organization, and other types of coverage that is available to either parent, under which medical services could be provided to the dependent children.

(3) Reasonable Cost. Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed 10% of his or her gross income. For purposes of applying the 10% standard, the cost is the cost of adding the child or children to existing coverage or the difference between self-only and family coverage, whichever is greater.

(4) Accessible. Health-insurance coverage shall be deemed "accessible" if ordinary medical care is available to the children within a 100-mile radius of their residence.

(d) The actual cost of a premium to provide health-insurance benefits for the children shall be added to the "basic child-support obligation" and shall be divided between the parents in proportion to their adjusted gross income in the percentages indicated on the Child-Support Guidelines form (Form CS-42).

(e) The amount to be added to the "basic child-support obligation" shall be the actual amount of the total insurance premium for family/dependent coverage, regardless of whether all children covered are in the same family.

(f) After the "total child-support obligation" is calculated and divided between the parents in proportion to their "monthly adjusted gross income," the amount added pursuant to subsection (e) shall be deducted from the obligor's share of the total child-support obligation, provided the obligor actually pays the premium. If the obligee is actually paying the premium, no further adjustment is necessary.

(g) If, at any time while a child-support order providing for an insurance adjustment is in effect, the insurance coverage is allowed to lapse, is terminated, or otherwise no longer covers the children for whose benefit the order was issued, the court (i) may find the amount deducted from the obligor's child-support obligation therefor to be an arrearage in the obligor's total child-support obligation; (ii) may find the obligor liable for medical expenses that would otherwise have been covered under the insurance; and/or (iii) may enter such other order as it shall deem appropriate.

APPENDIX C

Comment to Amendments Effective March 1, 2009

Rule 32(A)(4), "Health-Care Needs," was amended to state that health-insurance coverage may be provided through cash medical support and that the coverage must be accessible to the children. These provisions are required in state child-support guidelines pursuant to federal medical-support regulations. See 45 C.F.R. § 302.56(c)(3).

The title to Rule 32(B)(7) was changed from "Health-Insurance Premiums" to "Health-Insurance Coverage/Cash Medical Support" to more accurately describe the rule once the new provisions have been added.

Subsection (a) was added to ensure that the State's child-support guidelines are in compliance with 45 C.F.R. § 302.56(c)(3). The provisions that the health insurance be available to a parent at reasonable cost and that coverage be accessible to the children were included pursuant to 45 C.F.R. § 303.31(b)(1).

Subsection (b) was added to provide that cash medical support may be ordered in addition to health-insurance coverage, that cash medical support does not have to be a stand-alone amount, and that cash medical support can be allocated between the parents for responsibility for uninsured medical expenses.

Subsection (c) was added to define certain terms. The definition of "cash medical support" tracks the language of 45 C.F.R. § 303.31(a)(1). The definition of "health insurance" tracks the language of 45 C.F.R. § 303.31(a)(2). The definition of "reasonable cost" tracks the language of 45 C.F.R. § 303.31(a)(3). The Supreme Court's Advisory Committee on Child-Support Guidelines and Enforcement voted to provide that cash medical support or the cost of private health insurance is considered reasonable if the cost to the parent responsible for providing medical support does not exceed 10% of his or her gross income. For purposes of applying the 10% standard, the cost is the greater of the cost of adding the child to existing coverage or the difference between self-only and family coverage. A definition of "accessible" was added to comply with 45 C.F.R. § 303.31(b)(1). The federal government allows states

to define "accessible." The Advisory Committee chose to define this term as health-insurance coverage for ordinary medical care to children available to the children within a 100-mile radius of their residence.

Former subsection (a) was renumbered as subsection (d).

Former subsections (b), (c), and (d) were renumbered subsections (e), (f), and (g), respectively. Only technical changes were made to these subsections.